IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2993 OF 1991

Smt.Bayaka Mahalinga Keripale since deceased through her legal heir and representative :-

1-A) Smt.Anusuya Bapusaheb Bansawade, aged about 55 yrs Occ.Household, r/o. Jilebi Chowk, Brahamanpuri, Miraj Dist. Sangli. ..Petitioner

Versus

1) Shri Balwant @ Suresh Hari Gokhale, since deceased through his legal heirs and representatives

1-A) Shri Trimbak Hari Gokhale age about 70 years, Occ. R/o. Brahamanpuri, Near Gore Mangal Karyalaya, at & post Miraj, Dist. Sangli.

1-B) Shri Narayan Hari Gokhale age about 65 years, Occ. R/o.Brahmanpuri, Near Gore Mangal Karyalaya, At & Post Miraj, Dist. Sangli.

1-C) Shri Ashok Hari Gokhale age about 30 years, Occ. Service, R/o. C/o.V.G.Veze Somwarpeth, At & post Karad) Ral.Karad Dist.Satara

2-A) Subhadra wd/o. Vilas Heharkar) age about 50 yrs. Occ. Household.

2-B) Jayashri Vilas Neharkar (daughter minor)

2-C) Pratibha Vilas Neharkar (daughter minor)

2-D) Sarika Vilas Neharkar (daughter minor)

2-E) Swapna Vilas Neharkar)
(daughter minor))

2-F) Dhananjay Vilas Neharkar)
(son minor))

All above (b) to (f) represented)
through their natural guardians)
by Respondent 2(a) above r/o.)
near Gore Mangal Karyalaya, Tal)
Miraj, Dist. Sangli.)

3) Youraj Appasaheb Neherekar)
Aged about 35 years, Occ.)
Business, R/o. Near Gore)
Mangal Karyalaya, Opp.Murlidhar)
Temple, Miraj, Dist.Sangli.)...Respondents.

Shri S.S.Patwardhan for the petitioner.

Shri S.G.Karandikar i/by Shri Vikas M.Mali for Respondent Nos.1(a) to 1(c).

Shri Tejpal S.Ingale for the Respondent Nos.2(a) to 2(f) and 3.

Coram : R.S.Mohite,J

Date : 2.12.2005.

Oral Judgment :-

1. This petition impugns a Judgment and order dated 20.11.1990 passed by the member of MRT Pune camp, at Kolhapur in Revision Application No.MRT.SS.97/1987. By the impugned Judgment and order the member of MRT allowed the revision application and set aside the two Judgments and orders passed by the lower authorities. He accepted a surrender of tenancy made by original petitioner-tenant in her application dated 22.10.1984 and held that the

original respondent Balwant Gokhale before the Tribunal being the landlord was entitled to possession. It is an admitted position before me that the order of the MRT was implemented and the original landlord Balwant Gokhale took possession on 10.7.1998 immediately after the Judgment of the MRT and prior to his death.

2. The brief facts of the case are as under :-

(a) Land bearing Gut No.170/1 of village Takali, Dist. Sangli belonged to the original respondent Balwant Suresh Hari Gokhale who was the landlord thereof. The original petitioner Bayaka was a tenant in respect of the land on Tillers day. On 1.4.1957 i.e. on the tillers day the right to purchase was postponed for two reasons. The first being that Balwant was a minor and second being that Bayaka was a widow. Balwant attained his majority on 31.12.1963.

(b) On 22.10.1984, the tenant Bayaka filed an application before the Tenancy Awal Karkun, Miraj for surrender of 1 hector and 20 R out of survey no.170/1. The Awal karkun Miraj varified the said application as required under Rule-9 of the Bombay Tenancy and Agricultural Act 1956 but dismissed the application on the ground that the tenant had

already become a statutory purchaser on the landlord becoming a major. Tenant Bayaka then preferred Tenancy Revision no.5/1985 in the Court of Assistant Collector, Miraj and this application came to be dismissed and the Judgment and order of the lower Court came to be confirmed. It was directed by the Assistant Collector that proceedings under Section 32-G should be started. The landlord Balwant then carried a revision being MRT.SS.97/1987 to the Court of Maharashtra Revenue Tribunal. The MRT concluded that the opponent could not be said to become a deemed purchaser and that the landlord was entitled for possession on the valid surrender being made by the tenant. The MRT therefore, accepted the surrender and held that the landlord was entitled to possession.

3. I have heard both sides. It was contended that in view of the provisions of Section 13-F of the Bombay Agricultural Land Act, as the tenant had not exercised her option of purchase within two years on the landlord attaining majority, she had lost her right to purchase the land. In my view, it is not necessary to go into this question because admittedly the tenant herself is dis-abled person, being a widow and she had no right to purchase the land at all. 32 F (1)(b)-ii gives a right to purchase only to her successor-in-title. It is an

admitted position before me that the requirements of rule-9 of the Bombay Tenancy Agricultural land have been followed by the concerned Tenancy Awal Karkun who verified the application made under Section 15.

4. In this view of the matter, there is no substance in the petition and the rule is therefore, discharged. There will be no order as to costs.

(R.S.Mohite,J)